

## Remarks

Claims 1-12 are pending in the present application. Reconsideration and allowance are requested in view of the above amendments and the remarks below. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Furthermore, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application.

Claims 1-12 are rejected under 35 U.S.C. 103(a) over Choquier et al. (US 5,774,668), hereafter “Choquier,” in view of Agarwalla (US Patent No. 6,985,936), hereafter “Agarwalla.”

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

The rejection under 35 U.S.C. 103(a) over Choquier and Agarwalla is defective because Choquier and Agarwalla, taken alone or in combination, fail to disclose each and every feature of the claims.

Independent Claim 1 sets forth a method for:

“ensuring the availability of a service proposed by a service provider in a data transmission system including at least one user workstation connected to the Internet network, a plurality of content servers able to furnish services provided by service providers in response to service requests from said user workstation, and a proxy server interconnected between said Internet network and said content servers for receiving said service requests from said user workstation and transmitting each one to a content server able to provide the requested service;

said method including the following steps when said proxy server receives a service request,

- looking in a context table for an entry corresponding to a Uniform Resource Locator (URL) defined in said service request in order to determine the content server able to provide the requested service,

- appending a service availability request to said service request before sending said service request from said proxy server to said determined content server, the service availability request comprising a request for an availability of the determined content server,

- appending a service availability token to the reply provided by said determined content server before sending said reply from said determined content server to said proxy server, the service availability token containing at least a percentage of availability of the determined content server,

- removing said service availability token from said reply upon reception thereof by said proxy server,

- updating said context table in said proxy server before sending said reply to said user workstation by using information contained in said service availability token, and

sending said reply to said user workstation.”

In the Office Action, the Examiner admits that Choquier “does not show that service availability request is appended to service request from client ... does not

show that service availability token is appended to reply from content server ... as well as removing service availability token since it was not appended before.” Applicants agree.

To overcome the numerous glaring deficiencies of Choquier, the Examiner relies on the disclosure of Agarwalla. In particular, the Examiner asserts that “Agarwalla shows: that the service availability request [a content distribution flag (col. 8, lines 23-30)] is appended to service request from the user workstation [augmenting an HTTP GET request message with an HTTP header containing the service availability request (col. 8 lines 43-47)].” This is incorrect. In particular, in Agarwalla, the “content distribution flag” does not comprise a “service availability request” comprising a request for an availability of the determined content server. Rather, the purpose of “content distribution flag” in Agarwalla is to notify the receiving content server that a content caching system is “content distribution aware”. That is, if informed of the file name associated with returned content, the caching system can make use of that information. Clearly, the claimed “service availability request” does not correspond in any way with Agarwalla’s “content distribution flag.” Further, Agarwalla’s “content distribution information” (col. 10, lines 13-15) does not correspond to the claimed service availability token, containing at least a percentage of availability of the determined content server.

Accordingly, since Choquier and Agarwalla, taken alone or in combination, fail to disclose each and every feature of the claims, Applicants submit that

claims 1-12 are allowable.

With respect to the dependent claims, Applicants herein incorporate the arguments presented above with respect to the independent claims from which the claims depend. The dependent claims are believed to be allowable based on the above arguments, as well as for their own additional features.

If the Examiner believes that anything further is necessary to place the application in condition for allowance, the Examiner is requested to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

/ John A. Merecki /

Dated: October 5, 2007

John A. Merecki  
Reg. No. 35,812

Hoffman, Warnick & D'Alessandro LLC  
75 State Street, 14<sup>th</sup> Floor  
Albany, NY 12207  
(518) 449-0044 - Telephone  
(518) 449-0047 - Facsimile